



To: The Senate Committee on Public Health, Senior Issues, Long Term Care, and Job Creation:
Senator Tim Carpenter Chair

From: Edward Lump
President and CEO
Wisconsin Restaurant Association
2801 Fish Hatchery Rd.
Madison, WI 53713

Re: Support for AB 414 - Requiring passage of a written examination to obtain a certificate of food protection practices.

The Wisconsin Restaurant Association (WRA) supports AB 414. We have a long history of advocating for initiatives that have substantive, positive effects on food safety.

- WRA was the leading advocate of the current Wisconsin Law (effective since 1995) requiring that every licensed restaurant have a least one Certified Food Protection Manager on staff. To become certified, a manager must pass an exam from a National Conference of Food Protection (NCFP) accredited exam provider (no class time is required for the initial certification but most applicants do take a class or study on- line). There are three accredited exam providers.
- Current law also requires that a Certified Food Protection Manager be re-certified every 5 years. However, to be re-certified the managers need only take a three hour class.
- Re-certification by class time only has not proven effective in ensuring new information, science and additions to the Food Code are learned by the certified manager. This is because just sitting in a class has no accountability. There is no measurement that anything was learned. **“Demonstration of Knowledge” is a key requirement of the FDA/Wisconsin Food Code. Being a Certified Food Protection Manager is the primary way a restaurant manager meets the “Demonstration of Knowledge” requirement in the Food Code.** If there is no test, there is no certification. There is also no legal defensibility.
- **AB 414 requires that re-certification be accomplished by passing an exam from an NCFP accredited exam provider, just as current law requires for initial certification.** Class time will no longer be required but, as with the original certification, most will take a class or review on-line.
- The increased costs, over required class time, associated with re-certification testing are minimal (up to \$50) and are only incurred once every five years. If an applicant chooses **to study on their own, utilizing free resources such as the FDA Food Code, they will actually save time and money.**
- Re-certification by testing has been in effect in Milwaukee since January 1, 2009. It has been supported by industry and there have been few if any problems. Our experience in Milwaukee is that most people taking the exam to re-certify desire training to prepare for the exam. Most take a day-long, face to face review session and a lesser number use an on-line training course. We have had only two people try to take the exam without prior training or preparation.

Why promulgate an emergency rule establishing exam criteria?

- The Department of Health already has criteria in place to approve examinations that are used for the initial certification of Food Protection Managers. The exact same criteria will be used to approve exams for recertification. Therefore there is no need to allocate department staff time to recreate what is already in place.
- The administrative rule that includes testing criteria for Certified Food Protection Managers is DHS 196-Appendix A. The Department of Agriculture, Trade and Consumer Protection's ATCP 75 mirrors DHS 196. The departments will jointly open these rules for review and changes in 2010/11. The Department of Health and the WRA does not believe it is in the best interests of public health to delay the implementation of recertification testing while the rest of DHS 196 goes through a long review process.

The Wisconsin Restaurant Association is supporting AB 414 in order to further food safety in Wisconsin.

We ask you to pass AB 414.



State of Wisconsin
Department of Health Services

Jim Doyle, Governor
Karen E. Timberlake, Secretary

Senate Committee on Public Health, Senior Issues, Long-Term Care, and Job Creation
Assembly Bill 414
February 17, 2010

James Kaplanek, Chief for Food Safety and Recreational Licensing Section

Chairman Carpenter and members of the committee, thank you for the opportunity to testify today on AB 414. Hello, my name is James Kaplanek, chief for the Food Safety and Recreational Licensing Section (FSRL) with the Bureau of Environmental and Occupational Health (BEOH) in the Department of Health Services.

The FSRL program works with the food service industry to ensure safety of food service in Wisconsin. The FSRL program currently certifies more than 46,000 food managers in the State of Wisconsin. The National Conference for Food Protection recommends that food managers take and pass a national exam in food safety practices. Wisconsin has followed this standard since 1995. Initial certification is accomplished by taking and passing an approved national exam that is good for five years. In Wisconsin, food managers can then recertify by attending a recertification course that consists of a minimum three hours of class room training in food safety followed by a short quiz reviewed in class, this will renew their certification for another five years. When Wisconsin first developed the recertification criteria there were no recommendations from the National Conference for Food Protection.

This bill is revenue neutral to DHS. Our fee structure and costs for certification requirements do not change with this bill. Individuals are still required to be certified every five years.

During the 2002 National Conference for Food Protection, a new standard for recertification was adopted. This standard stresses the assessment of continued competence of Certified Food Protection Managers by requiring the successful completion of a nationally accredited examination at an interval of no more than five years.

The Department joins the Wisconsin Restaurant Association in its support of Assembly Bill 414, requiring Food Managers to certify by exam every five years, for the following reasons:

- The current recertification process does little to assess knowledge. Over the course of five years, there are many advances in science and technology and changes in the FDA Model Food Code. Assessing knowledge based on passing an examination from an accredited certification program is the most reliable way of ensuring that Food Protection Managers have the required education and competencies.
- Accreditation enhances consumer and public confidence in a certification program by assuring the existence of a continuous review and the improvement of quality and accountability.
- The exam component every five –years is based on a legally defensible and psychometrically valid job task analysis.
- Wisconsin Food managers that take and pass a national exam have the benefit of their certification being accepted by other states. Currently that is only true during the first five years in Wisconsin; once they take the Wisconsin recertification course they no longer have national certification.
- The bill was proposed as an emergency rule, because it is a relatively small change to the existing statute that would require food managers to test every 5-years by exam. This is not the creation of a new statute, but a modification of the existing statute to meet current national standards. It

does not increase revenues for the department nor require any increased oversight by the department.

This proposal is protective of public health and supported by the Department of Health Services.

February 18, 2010

**TO: Senate Committee on Public Health, Senior Issues, Long-Term
Care, and Job Creation**

Tim Carpenter, Chairman

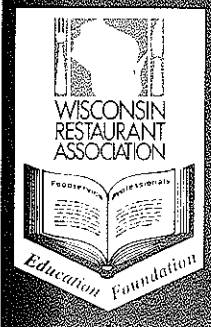
**FR: Steve Davis, Owner
Ardy and Ed's Drive-In, Oshkosh**

RE: Support of Assembly Bill 414

I am the co-owner of Ardy and Ed's Drive-In in Oshkosh. My restaurant is a seasonal drive-in that features car-hops on roller skates and great draft root beer. I am also the current chairman of the board for the Wisconsin Restaurant Association Education Foundation.

I strongly believe that Wisconsin is, and needs to stay, a leader in food safety. That is why I support Assembly Bill 414.

- In my experience as a restaurant operator/manager, food safety has risen to the top as an issue of importance for the restaurant industry. Educating myself and my employees about food safety is increasingly important to my business.
- I believe that education of managers and employees plays a key part in preventing food borne illness. However, without testing there is no guaranteed learning. I believe that it is important a Certified Food Protection Managers should take an approved test in order to maintain their certification.
- As a small independent operator, I need to remain competitive and keep up with all of the restaurants in my area. Unlike a franchisee, I do not have a corporate food safety director to help me with my food safety plans for my restaurant; I need to develop it myself. Recertification through testing keeps me and my fellow small operators sharp and competitive.
- Now that the national guidelines require an exam for Certified Food Protection Manager recertification, I believe Wisconsin should too. Wisconsin needs to be a leader and be part of the national food safety system. We cannot be an island, where we do not meet the same standards as other mandated states.
- The foodservice industry is made up of professionals. As professionals we must be accountable for protecting the public who patronize our establishments. This is a serious issue and our industry realizes the importance of food safety and the need for maintaining our level of food safety knowledge, which outweighs any



inconvenience caused by taking an exam every five years.

- The mechanisms are in place for people to start recertifying by exam right now. No new review courses or exam sites need to be developed. Today, there are many options for operators to get themselves prepared to take an exam every five years. There are now many online training and review options available to our industry, in many languages. These courses allow you to learn at your own pace and repeat areas that you may need extra help on. And, of course, if traditional face-to-face training is more an operator's learning style, those are available from many sources around the state.
- I take food safety and professionalism in our industry very seriously. In order to protect the restaurant and tourism industry in Oshkosh and the rest of Wisconsin, I need to be assured the restaurant; tavern or grocery store deli down the road takes food safety as seriously as I do.
- If there is a food borne illness outbreak in my town that could have been prevented by the food establishment, all of us pay for it. I pay for it with reduced business because local patrons will think they are safer eating at home and tourists will avoid our area. *(tell Oshkosh convention outbreak example)*
- Recertification testing is the right thing to do - for both the consumer and the food industry.

Wednesday, February 17, 2010

Senate Committee on Public Health, Senior Issues, Long-Term Care, and Job Creation

Written Testimony

Steve Schilling

Owner

ZaZING! Restaurant

Pleasant Prairie

I support AB-414, the bill requiring Certified Food Protection Managers to successfully pass a nationally accredited exam for recertification.

I own a small restaurant in Pleasant Prairie and have 50+ years of experience in the restaurant industry, both as an owner of a small business and as an executive in a large multi-unit restaurant operation.

I recently took the ServSafe® Food Protection Manager exam to recertify, because I had exceeded the grace period after my state certification expired. I am glad that I did!

Because I had to study to prepare for the exam, I realized how much food safety information has changed just in the past five years. I learned new practices to use in my restaurant and teach my staff.

If I would not have had to take the exam, I believe that I would not have learned the new information. Just sitting in a class for a few hours would not have accomplished the same thing.

I used an online course to study and then took the exam at a proctored exam site. As a small business owner, I cannot be away from my restaurant for an entire day very often. Having the flexibility to study online at my own pace and then take the exam at my convenience was important to me.

I strongly believe that restaurant owners and managers need to be on top of everything new in food safety and requiring testing for Manager Recertification is the best way to ensure that happens.



February 18, 2010

TO: Senate Committee on Public Health, Senior Issues, Long-Term Care, and Job Creation

Tim Carpenter, Chairman

FR: Linda Wendt, Owner

Wendt's on the Lake, Van Dyne

RE: Support of Assembly Bill 414

I am the owner of Wendts on the Lake in Van Dyne. I am also the current Chairwoman of the Board for the Wisconsin Restaurant Association.

I want to express support for Assembly Bill 414.

- As a small business owner I have a lot of different issues on my plate that I must pay attention to. None are more important than food safety.
- All of my kitchen staff members are required to be Certified Food Protection Managers. I pay for them to attend the review course and take the initial exam, as well as their recertification classes when they must renew. I feel the knowledge gained is essential to be preparing food in my kitchen.
- I know I only need one certified manager to meet the minimum state requirements, but I feel it is necessary to have more of my people trained and certified to protect my business and customers
- At this time I have 9 employees who are certified. I post my staff's certificates so that my customers can feel confident in my staff's ability to prepare quality food while using all the required food safety laws that Wisconsin requires.
- I have had employees express a desire - after completing the recertification courses - to be given more information. This tells me that they are not getting enough information in their recertification classes and that recertification testing would be the answer. I would know my staff to know for sure that they have achieved the full benefit of the class when they pass the exam.
- I believe that recertification testing for all foodservice establishments would be a Win-Win for Wisconsin. Operators and managers must take food safety seriously, including being truly certified and knowledgeable in all food safety

information. By requiring an accredited exam every five years, I feel that more emphasis will be placed on learning and practicing proper food safety procedures. Wisconsin consumers and tourists will be safer for it.

- This issue could be compared to picking your doctor: would you choose a doctor who proved he or she had the knowledge to treat you or one who did not? Wisconsin foodservice guests want to know that when it comes to food safety they can feel safe while dining in our establishments.
- I know that a testing requirement will cost me and my fellow small businesses a few more dollars to implement, but I feel the benefits are worth it. And besides – we are talking about taking an exam every five years – not every year. The cost of the exam will add about \$25-50 to current courses and other exam options. Spread out over five years that is a small price to pay for knowledge. You cannot put a price on preventing a food borne illness.

Wednesday, February 17, 2010

TO: Senate Committee on Public Health, Senior Issues, Long-Term Care, and Job Creation

Tim Carpenter, Chairman

FR: Susan Quam, WRA Education Foundation Executive Director

RE: AB-414 (Certified Food Protection Manager Recertification Testing)

I am Susan Quam, Executive Director of the Wisconsin Restaurant Association Education Foundation. I specialize in the areas of education, food safety, nutrition and food defense on behalf of the WRA and the restaurant industry.

I serve on the National Conference for Food Protection Manager Training, Testing and Certification Committee. This committee oversees and develops standards for Certified Food Protection Managers. I have participated on this committee since 2000 and have been reappointed four times to represent small restaurant businesses.

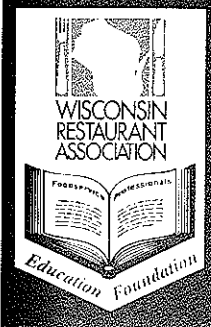
The National Conference for Food Protection is a true partnership of regulators, industry representatives, academics and consumers working together to identify and find solutions to today's challenges in the areas of food safety and consumer protection. The Food and Drug Administration recognizes the Conference as a developer of standards to promote food protection. Every two years the Conference meets to discuss and debate changes to the FDA's Food Code and supporting food safety programs. The FDA uses Conference's recommendations when it issues changes to its Food Code every four years. Both the Wisconsin Departments of Health Services and Agriculture, Trade and Consumer Protection participate in the Conference as well as Council members and voting Delegates.

Beginning in 2006, I have been selected three times to represent small restaurant businesses on Council II at the Conference's Biennial Meeting. This council reviews and debates issues relating to Education and Training for both industry and regulatory professionals in the retail food industry. Certified Food Protection Manager training and certification fall under this Council's jurisdiction.

You may ask why all of this Conference for Food Protection information matters.

Because it is the Conference, and ultimately the FDA, who drive the train on what are the food safety priorities nationwide and statewide within the restaurant industry.

Holding a Food Protection Manager Certification is the primary way for a manager to meet Demonstration of Knowledge requirement in the FDA and Wisconsin Food Codes Section 2-102.11. The FDA will only recognize certified managers who have been certified by testing organizations accredited based on the Conference's standards. Attached to my testimony is a copy of the 2004 letter from the FDA outlining this information.



I have been asked by many educators and trainers why is the exam so important to determining whether a person is truly a Certified Food Protection Manager.

FDA has determined that a certification must be based on valid, reliable and legally defensible criteria, in order to meet the Food Code's Demonstration of Knowledge requirement.

Food Protection Manager Certification Examinations are designed to assess individuals' competence in food safety and in the practices required to protect the public from foodborne illness. The examination is considered a *high-stakes* test in that the outcome (passing or failing) may have serious consequences for the individual test taker and for the public at large. Because the goal of any certification examination is to identify competent practitioners, examinees' scores must be fair and accurate and based on sound psychometric** principles. A passing score on a Food Protection Manager Certification Examination signifies that the examinee has demonstrated proficiency in safe foodhandling. To assure that professionals are always best prepared to protect public welfare it is critical that they demonstrate continued competency through re-certification.

A job task analysis (JTA) is a research method employed by test providers to gain a detailed content outline of the *essential* knowledge, skills, and abilities required in order to serve food safely. JTAs are used as the foundation for test development in all industries and professions, and are used to develop test questions and to establish an examination blueprint. Testing industry standards require test providers to perform a new JTA every 3-5 years because the science behind any given profession changes periodically, and because certification examinations are *high-stakes*. Food safety is no exception: the FDA releases new food safety regulations as new information becomes available and the science behind what's required to keep food safe is constantly updated.

Periodic re-certification, as opposed to training, is a necessary means to ensure continued public safety. Unlike training situations, whereby individuals may be awarded credit for simply being present, the certification examination provides an objective measure of an individual's safe foodhandling knowledge and is a valid and reliable demonstration of competency.

Why not use continuing education or CEU's to renew certification?

While renewing a licensure, registration or certification via seat-time based education options may work for other industries; this method of certification does not meet the needs of the restaurant industry, or FDA. Certification without a psychometrically sound evaluation of knowledge is not valid, reliable or legally defensible. **Developed according to sound psychometric** standards, examinations developed by CFP accredited organizations provide the appropriate amount of rigor to ensure that a candidate received the necessary training to demonstrate the knowledge level required of Food Protection Managers.**

While recertification courses in Wisconsin currently are required to issue a quiz or test at the end of the course, these tests are not developed using sound psychometric principles or job task analyses, which means they are not legally defensible.

****Psychometrics** literally means "psychological measurement." It is the methodology that deals with designs, administrations, and interpretations of measurement on individuals' constructs such as abilities, attitudes, personality, knowledge, quality of life



April 13, 2004

Ms. Glenda M. Christy
Chair, Conference for Food Protection
1085 Denio Avenue
Gilroy, CA 95020-9206

Dear Ms. Christy:

The 2004 biennial meeting of the **Conference for Food Protection** is a fitting occasion for FDA's Center for Food Safety and Applied Nutrition to commend the Conference for its significant achievements in support of State and local food safety programs.

The FDA in a Memorandum of Understanding recognizes the Conference for Food Protection as a voluntary national organization qualified to develop standards to promote food protection. Conference recommendations contribute to improvements in the model FDA Food Code and help jurisdictions justify, adopt and implement its provisions.

Conference mechanisms involving active participation by representatives of diverse stakeholder groups produce consensus standards of the highest quality. An excellent example is the Conference's **Standards for Accreditation of Food Protection Manager Certification Programs**, and its announcement of the new on-line listing of accredited certifiers of industry food protection managers. Many years in their development, these Conference standards identify the essential components necessary for a credible certification program. Components cover a wide range of requirements such as detailed criteria for exam development and administration, and responsibilities of the certification organization to candidates and the public.

FDA applauds the Conference for this significant achievement, and encourages agencies at all levels of government to accept certificates issued by listed certifiers as meeting their jurisdictions' food safety knowledge and certification requirements. The American National Standards Institute (ANSI) has independently evaluated these certification programs under an agreement with the Conference for Food Protection. Governments and industry widely recognize and respect ANSI as an accrediting organization. ANSI has found certifiers it lists as accredited (www.ansi.org) to conform to the Conference's **Standards for Accreditation of Food Protection Manager Certification Programs**.

CDC estimates 76 million Americans get sick, more than 300,000 enter the hospital, and 5,000 people die because of food-borne illnesses each year. The FDA Food

Code states the person in charge of a food establishment is accountable for developing, carrying out, and enforcing procedures aimed at preventing food-borne illness. Section 2-102.11 states that one means by which a person in charge may demonstrate required knowledge of food safety is through certification as a food protection manager by passing an examination that is part of an accredited program.

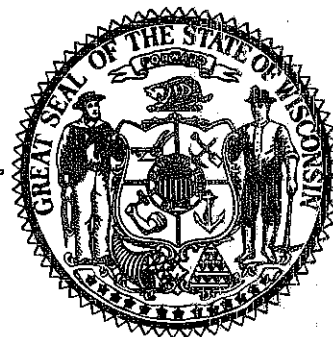
FDA encourages food regulatory authorities and others evaluating credentials for food protection managers to recognize the Conference for Food Protection/ANSI means of accrediting certification programs. This procedure provides a means for **universal acceptance** of individuals who successfully demonstrate knowledge of food safety. The procedure provides officials assurance that food safety certification is based on valid, reliable, and legally defensible criteria. In addition, universal acceptance eliminates the inconvenience and unnecessary expense of repeating training and testing when managers work across jurisdictional boundaries.

FDA, along with state, local, tribal and other federal agencies and the food industry, share the responsibility for ensuring that our food supply is safe. It is anticipated that this new Conference for Food Protection/ANSI program will lead to enhanced consumer protection, improve the overall level of food safety, and be an important component of a seamless national food safety system.

Sincerely yours,

Robert E. Brackett, Ph.D.
Director
Center for Food Safety
and Applied Nutrition

FRED A. RISSE
President
Wisconsin State Senate



February 16, 2010

Senator Tim Carpenter, Chair
Senate Committee on Public Health,
Senior Issues, Long-Term Care and Job Creation
306 South, State Capitol
HAND DELIVERED

Dear Senator Carpenter,

Thank you for holding a hearing on Assembly Bill 414. Other obligations in the Capitol prevent me from appearing in person in support of this legislation.

This bill was requested by the Wisconsin Restaurant Association.

Under current law, restaurant operators must pass a written examination in order to receive a certificate of food protection practices. The renewal of this certificate requires the completion of a recertification training course but not a written examination.

Assembly Bill 414 will require that certificate renewals also include the successful completion of a written examination. This change in law will have a two-fold effect: First, it will improve our current system of food safety, and second, it will provide additional assurances that Wisconsin restaurants are practicing safe food handling.

Assembly Bill 414 was approved by the Assembly in January 2010. I would encourage the committee to act favorably on this legislation to ensure that restaurant operators are up to date on the most current food safety practices.

Thank you again for your willingness to hold a public hearing on Assembly Bill 414. If you should have any questions, please do not hesitate to contact me.

Most sincerely,


FRED A. RISSE
President
Wisconsin State Senate

FAR:skb
CC: Members of the Committee



STATE REPRESENTATIVE
JON RICHARDS

WISCONSIN STATE ASSEMBLY

Testimony of Representative Jon Richards

Assembly Bill 414

Senate Committee on Public Health, Senior Issues, Long-Term Care and Job Creation
February 17, 2010

Thank you, Chairman Carpenter and members of the Senate Committee on Public Health, Senior Issues, Long-Term Care and Job Creation for conducting a public hearing on Assembly Bill 414 and for giving me the opportunity to address the Committee.

Assembly Bill 414 will strengthen Wisconsin's food safety laws by requiring those seeking renewal of a certificate of food protective practices to pass a written examination. Under current law, successful completion of a written examination is required to receive a certificate but no examination is required to renew a certificate. Current law only requires the successful completion of a recertification training course.

According to the U.S. Department of Health and Human Services, "...the presence of a certified food safety kitchen manager significantly reduces the risk for outbreaks of foodborne illness in restaurants. In fact, the presence of a certified food safety kitchen manager was the major distinguishing factor between restaurants in which foodborne illness outbreaks occurred and restaurants in which foodborne illness outbreaks did not occur."

The City of Milwaukee is ahead of the curve when it comes to food safety. In November of last year the City adopted an ordinance amendment which requires restaurant operators to successfully pass an accredited examination for food protective practices as a condition of renewal. I believe it is time to expand this level of protection to the rest of the state.

Assembly Bill 414 is supported by the Wisconsin Restaurant Association because they recognize the importance of professionalism and safe food handling procedures in maintaining a healthy business and healthy customers. This reasonable reform does not create a hardship for small business people and will pay dividends in terms of improved public health.

Assembly Bill 414 was passed by the Assembly Committee on Public Health on a vote of 6-1 and by the full Assembly on a vote of 58-40.

Thank you for giving me the opportunity to testify and for your interest in this legislation.